FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.1541 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr. P.N. Shastri, for the Petitioners.
Mr. M.R. Bubna, for Respondent No.1.
Mr. A.H. Palekar, for Respondent No.3.

CORAM : S.A.BOBDE, J.
DATED : 17TH JUNE, 2005

P.C.

. Rule, returnable forthwith. Heard by consent.

2. The petitioner is an education society, who had employed the Respondent as a teacher.

3. The initial appointment order is clearly for a period of one year from 23rd June, 1997 to 30th April, 1998 for the academic year 1997-98 only. The Respondent has also given an undertaking that if his services are terminated at the end of the academic year he would not make any claim for the post since he is aware that his appointment is only for the

academic year 1997-98. Thereafter on 27th April, 2001 the petitioner appears to have appointed the respondent expressly on probation for a period of two years with effect from 13th June, 2000. Initially the Respondent's appointment was approved from 13th June, 2000 and there is a direction that while making appointments a roster certified from the Commissioner for Backward Class should be obtained and appointments should be made to clear the backlog of reserved vacancies.

3. Subsequently the Respondent's services were terminated on 30th June, 2001 without holding any enquiry on the ground that the Respondent's post was reserved. Admittedly the post was not advertised as a reserved post at the first instance, but the advertisement merely says that preference will be given to reserved category candidates.

4. The Respondent filed an Appeal against the termination. The School Tribunal has set aside the termination. While doing so, however, the School Tribunal has fallen into an obvious error vide page 25 by holding that the initial appointment of the Respondent can be taken

into consideration. The initial appointment is referable to 21st June, 1997 when the Respondent was appointed only for the academic year 1997-98 as observed earlier. This is a manifest error apparent on the face of the order. If at all the School Tribunal was inclined to consider the Respondent's appointment as being on probation it could have been so considered with effect from 27th April, 2001 with from 13th June, 2000. However, the petitioner expressly issued an appointment order on probation for a period of two years to the Respondents. In these circumstances it is not possible to sustain the order of the School Tribunal. In the circumstances I consider it appropriate in the interest of justice to set aside the impugned order and remand the matter back to the School Tribunal for a fresh decision in accordance with law. All contentions of both the parties are left open in particular the question as to the period for which the management intended to appoint the teacher shall be gone into by the Tribunal. The Tribunal is directed to decide the Appeal within a period of 3 months from the date the parties appear before it. The parties are directed to appear before the School

Tribunal on 6th July, 2005.

5. It was brought to my notice in this case that the Tribunal merely delivered the operative part of the order on 15th July, 2004 and made a certified copy of its judgment along with the reasons available to the parties on 4th November, 2004. As a result of this, this petition was filed by the management on 28th January, 2005. In the meanwhile the petitioner claims to have appointed a NT candidate in the post held by the Respondent. It is important to the School Tribunal to bear in mind that it is irregular on its part to employ this practice of pronouncing the operative part of the judgment. As observed by the Supreme Court in the case of **State of Punjab and Ors. vs. Jagdev Singh Talwandi, AIR 1984 SC 444.**This is a practice which even High Courts should not follow, a fortiori, a School Tribunal must not.

. Petition stands disposed of accordingly.

(S.A. BOBDE, J.)